

FILED
MISSOULA, MT

2006 NOV 7 AM 9 17

PATRICK E. DUFFY

BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

| | | |
|----------------------------|---|----------------|
| SHANE BRYAN MCCLANAHAN, |) | CV 04-49-M-DWM |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| P. TILLMAN, L. RANTZ, |) | |
| S. HINTZ, B. JACOBSON, and |) | |
| SGT. SCAMMON, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

United States Jeremiah C. Lynch entered Findings and Recommendation in this matter on October 30, 2006. Plaintiff McClanahan filed objections and is therefore entitled to de novo review of the record. 28 U.S.C. § 636(b)(1). The Parties are familiar with the factual and procedural background so they will be recited only as necessary

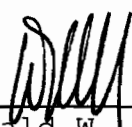
Judge Lynch concluded that the case should be dismissed. I agree. The Court has repeatedly attempted to accommodate McClanahan to enable him to present his case. McClanahan has not complied with Court orders and has made it difficult to proceed on the merits.

The case will be dismissed pursuant to Rule 41(b) of the

Federal Rules of Civil Procedure. Judge Lynch correctly reasoned that the five-factor analysis favored this disposition. See *Pagtalunan v. Galaza*, 291 F.3d 639 (9th Cir. 2003). McClanahan has objected but he fails to set forth a compelling legal reason why Judge Lynch's Findings and Recommendation should not be adopted.

Accordingly, based upon the foregoing I adopt Judge Lynch's Findings and Recommendation (dkt #35) in full: the case is DISMISSED.

DATED this 7th day of November, 2006.



Donald W. Molloy, Chief Judge
United States District Court

